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July 24, 2002

TO: Commissioners and Interested Parties

FROM: Charles Lester, Acting Deputy Director
Steve Monowitz, Coastal Planner

SUBJECT: **SAN LUIS OBISPO COUNTY LOCAL COASTAL PROGRAM MAJOR AMENDMENT NO. 3-01: Designation of the Los Osos Wastewater Treatment Facility Site**. For public hearing and Commission action at its meeting of August 8, 2002 to be held at the Embassy Suites Hotel (333 Madonna Road) in San Luis Obispo.

SUMMARY OF STAFF REPORT

DESCRIPTION OF AMENDMENT REQUEST

The proposed LCP amendment, attached to this report as Exhibit 1, consists of map and text revisions to the Estero Area Plan (a component of the San Luis Obispo County certified Land Use Plan) intended to accommodate the future construction of a wastewater treatment facility in Los Osos, San Luis Obispo County. Specifically, the amendment proposes to add the Public Facilities (PF) land use designation to an 11.5-acre site within the urban core of Los Osos known as the "Tri-W" site. In addition to the PF designation, the site will retain its current land use designations of Office and Professional (O/P) and Commercial Retail (CR), which will enable the other uses currently allowed by the LCP to occur on the site, consistent with other LCP requirements, in the event it is not acquired for public facility purposes.

Along with the addition of the PF designation to the Tri-W site, the amendment proposes new Planning Area Standards that would apply to public facility development. These standards require public utility projects to conform to the special use standards of the Coastal Zone Land Use Ordinance. The new standards also require wastewater treatment facility development to implement the mitigation measures contained in the Final Environmental Impact Report for the Los Osos Wastewater Treatment Project certified by the Los Osos Community Services District (LOCSD) on March 2001 and attached to this report as Exhibit 2.

SUMMARY OF STAFF RECOMMENDATION

The development of a wastewater treatment facility for the South Bay urban area of the Estero planning area is necessary to protect the water quality of the Morro Bay National Estuary and the Los Osos groundwater basin. Since its formation in 1998, the Los Osos Community Services District (LOCSD) has built on previous efforts to address this need. The LOCSD has evaluated numerous project alternatives and determined that construction of a treatment facility and public park on the Tri-W site would best meet the project's and the community's needs.

A significant Coastal Act issue raised by this proposal is the presence of environmentally sensitive habitat areas (ESHA) at the Tri-W site. Inconsistent with Coastal Act Section 30240, the wastewater treatment project accommodated by the amendment will result in the loss of approximately 11 acres of sensitive habitat that, although disturbed, supports rare and valuable biological resources. However, the construction of a wastewater treatment project is essential to carry out the broader resource protection policies of the Coastal Act, such as those that call for the protection of coastal water quality, aquatic habitats, marine resources, coastal dependent uses, and groundwater supplies. Thus, there is a conflict between section 30240 of the Act, and the water quality protection policies of the Act (30230, 30231). Therefore, as provided by Section 30007.5 of the Coastal Act, **staff recommends approval of a modified version of the amendment,** on the basis that the construction of a wastewater treatment facility with offsite habitat mitigation is, on balance, more protective of significant coastal resources than the protection of the habitat contained on the Tri-W site.

The suggested modifications are needed to revise and supplement the amendment in a way that maximizes its consistency with the Chapter 3 policies of the Coastal Act. First, the range of public utility facilities allowed on the Tri-W site must be narrowed, since only a wastewater treatment facility justifies the removal of sensitive habitat. The development of other public facility uses, such as the outdoor recreation uses and public amenities proposed for the site by the LOCSD, must be made contingent upon the adoption and implementation of an area wide program that will effectively protect the region's sensitive habitat values as infill of sensitive habitats within the urban area occurs. Such a program is currently under development as a part of the Estero Area Plan.

Consistency with Section 30240 also necessitates that the development of the wastewater treatment facility avoid and minimize the disturbance of ESHA to the greatest degree feasible. Thus, the suggested modifications incorporate this requirement into the proposed standards for wastewater facility development.

ANALYSIS CRITERIA

The relationship between the Coastal Act and a local government's Local Coastal Program (LCP) can be described as a three-tiered hierarchy with the Coastal Act setting generally broad statewide policies. The Land Use Plan (LUP) portion of the LCP incorporates and refines Coastal Act policies for the local jurisdiction, giving local guidance as to the kinds, locations, and intensities of coastal development. The Implementation Plan (IP), or zoning portion of an LCP typically sets forth zone districts and site regulations which are the final refinement specifying how coastal development is to proceed on a particular parcel. The IP must be consistent with, and adequate to carry out, the policies of the LUP. The LUP must be consistent with the Coastal Act.

In this case, the proposed LCP amendment affects only the LUP component of the San Luis Obispo County LCP. Thus, the standard of review for the amendment is consistency with the Chapter 3 policies of the Coastal Act.

ADDITIONAL INFORMATION

For further information about this report or the amendment process, please contact Steve Monowitz, Coastal Planner, at the Central Coast District Office of the Coastal Commission, 725 Front St., Suite 300, Santa Cruz, CA 95060; telephone number (831) 427-4863.

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I. STAFF RECOMMENDATION

MOTIONS AND RESOLUTIONS

The Commission must make the following two motions in order to act on this proposal as recommended by staff:

A. Denial of the Land Use Plan Amendment As Submitted

MOTION 1: ***I move that the Commission certify Land Use Plan Amendment Number 3-01 as submitted by San Luis Obispo County.***

STAFF RECOMMENDATION TO DENY:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO DENY:

The Commission hereby denies certification of the Land Use Plan Amendment Number 3-01 as submitted by San Luis Obispo County and adopts the findings set forth below on the grounds that the amendment does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures that could substantially lessen any significant adverse impact that the Land Use Plan Amendment may have on the environment.

B. Approval of the Land Use Plan Amendment with Suggested Modifications

MOTION 2: ***I move that the Commission certify Land Use Plan Amendment Number 3-01 for San Luis Obispo County if it is modified as suggested in this staff report.***

STAFF RECOMMENDATION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

Staff recommends a **YES** vote. Passage of the motion will result in the certification of the land use plan amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the appointed Commissioners.

RESOLUTION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Land Use Plan Amendment 3-01 for San Luis Obispo County if modified as suggested and adopts the findings set forth below on the grounds that the Land Use Plan amendment with suggested modifications will meet the requirements of and be in conformity with

the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Land Use Plan Amendment may have on the environment.

II. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following changes to the proposed Local Coastal Program amendment, which are necessary to make the requisite findings. Changes to the amendment proposal are shown by underlines for additions and ~~strikethroughs~~ for deletions. If the local government accepts each of the suggested modifications within six months of Commission action, by formal resolution of the Board of Supervisors, the corresponding amendment portion will become effective upon Commission concurrence with the Executive Director finding that this has been properly accomplished.

Modification 1: Limitation on Allowable Uses

Revise proposed new Standard 1a for the Commercial Retail, Public Facility land use category and new Standard 1 for the Office and Professional, Public Facilities Land Use category to limit public facility development to a wastewater treatment plant and associated infrastructure as follows:

> *COMMERCIAL RETAIL, PUBLIC FACILITIES: The following standards apply only to lands within the Commercial Retail, Public Facilities land use categories.*

1. *Limitation on Use.*

   a. *The following uses shall be allowed ~~Allowable uses shall be limited to all uses allowable in the Public Facilities land use category per Table O, Framework for Planning, Coastal Zone,~~ only in the event that the site is acquired by a public agency or special district and committed to public wastewater treatment facility uses: outdoor sports and recreation, passive recreation, public assembly and entertainment, temporary events, water wells and impoundments, outdoor retail sales, offices, pipelines and transmission lines, and public utility facilities.*

…

OFFICE AND PROFESSIONAL, PUBLIC FACILITIES: The following standards apply only to lands within the Office and Professional, Public Facilities land use categories.

1. *Limitation on Use. The following uses shall be allowed ~~Allowable uses shall be limited to all uses allowable in the Public Facilities Public Facilities land use category per Table O, Framework for Planning, Coastal Zone,~~ only in the event that the site is acquired by a public agency or special district and committed to public wastewater treatment facility uses: outdoor sports and recreation, passive recreation, public assembly and entertainment, temporary events, water wells and impoundments, outdoor retail sales, offices, pipelines and transmission lines, and public utility facilities. Otherwise, allowable uses shall be limited to all uses allowable in the Office and Professional land use category per Table O, Framework for Planning, Coastal Zone.*

Modification 2: Revised Standards for Public Facility Development

Consolidate proposed standards for the development of public facilities at the Tri-W site as follows. In the Commercial Retail, Public Facilities standards, revise proposed standards 2 to read:

2. *~~Public Utility Facility~~ Standards for the Development of Public Facilities. Public Utility ~~Facilities~~ Facility uses shall be subject to the special use standards established for those uses in Chapter 23.08 of the Coastal Zone Land Use Ordinance as if they were shown as "S-13" uses in Table O, Framework for Planning, Coastal Zone. No public facilities or uses, other than a wastewater treatment plant and associated infrastructure, shall be permitted unless the development of such uses is consistent with an area wide urban infill program that provides maximum protection of the environmentally sensitive habitats areas within and directly adjacent to the South Bay urban area.*

Similarly, in the Office and Professional, Public Facilities Standards, revised proposed standards 2 to read:

2. *Public Utility Facility Standards. Public Utility ~~Facilities~~ Facility uses shall be subject to the special use standards established for those uses in Chapter 23.08 of the Coastal Zone Land Use Ordinance as if they were shown as "S-13" uses in Table O, Framework for Planning, Coastal Zone, and with preceding standard 2, Standards for the Development of Public Facilities, for the Commercial Retail, Public Facilities land use category.*

III. RECOMMENDED FINDINGS

The San Luis Obispo County certified LCP is composed of seven parts: the Coastal Zone Land Use Ordinance, which is the Implementation Plan (IP) portion of the LCP; the Framework for Planning, the Coastal Plan Policies, and four Area Plans, which make up the Land Use Plan (LUP). The Commission approved the LUP with modifications on October 14, 1982, and the IP was approved as submitted on October 7, 1986. The County assumed permit-issuing authority on March 1, 1988.

A. Amendment Description

This LCP amendment, which is attached as Exhibit 1, consists of map and text revisions to the Estero Area Plan (a component of the San Luis Obispo County certified Land Use Plan) intended to accommodate the future construction of a wastewater treatment facility in Los Osos, San Luis Obispo County. Specifically, the amendment proposes to add the Public Facilities (PF) Land Use Designation to an 11.5-acre site within the urban area of Los Osos referred to as the Tri-W site. The site consists of two vacant parcels located on the north side of Los Osos Valley Road and bounded by Ravenna Avenue to the west and Palisades Avenue to the east. One of these parcels (the one at the intersection of Los Osos Valley Road and Palisades Avenue) is about 3.2 acres and currently designated Office Professional (O/P). The other parcel (at the intersection of Los Osos Valley Road and Ravenna Avenue) is approximately 8.3 acres and is designated Commercial Retail (CR). The PF land use designation will be added to the current designations, and the use allowed within PF land use designations would be allowed only in the event that the site is acquired by a public agency or special district and committed to public facility uses. Until that occurs, only those uses currently allowed within the CR and O/P designations by the Estero Area Plan may be permitted where consistent with all other applicable LCP standards.[1]

The amendment also incorporates standards for the future development of public facilities on the subject site within Chapter 8 of the Estero Area Plan. These standards require that public utility facilities comply with the special use standards established in the Coastal Zone Land Use Ordinance. They also require future development of a wastewater treatment plant to include implementation of the mitigation measures contained in the Final Environmental Impact Report for the Los Osos Wastewater Treatment Project certified by the LOCSD in March 2001 and attached to this Report as Exhibit 2.

B. Amendment Background

Much of the South Bay urban area, which includes the residential communities of Los Osos, Baywood Park, and Cuesta-by-the-Sea, was platted in the late 19th Century, with approximately 5,000 small lots intended for summer homes and retreats. Many of these lots are only 25 or 37 feet in width and 125 feet in length. As the resident population increased from approximately 600 in 1950

[1] One exception to this is that the amendment adds public utility facilities as an allowable use within the portion of the site currently designated CR, irrespective of future acquisition by a public agency or special district. Public utility facilities are already allowed within the O/P designation.

to the current level of approximately 15,000, so has the number and intensity of septic systems.

The Central Coast Regional Water Quality Control Board (RWQCB) and other health agencies became concerned with the use of individual disposal systems (i.e., septic systems) in the Los Osos area in the early 1970's when it was identified that the depth to groundwater is shallow enough in some areas to flood leach fields in wet weather, posing adverse impacts to Morro Bay associated with surface flow and lateral seepage of inadequately treated wastewater.

Significant concern was also raised regarding the impacts of septic systems on groundwater resources, particularly the fact that the Los Osos area obtains its water supply from groundwater aquifers. In the Baywood Park area, few of the systems can meet the RWQCB's criteria for separation between the bottom of a leach field and ground water. Furthermore, many of the smaller lots are too small for leach fields, and as a result, utilize deeper seepage pits which may discharge directly to ground water.

To address these concerns, an interim Basin Plan adopted by the RWQCB in June 1971 contained a provision prohibiting septic system discharges in the area after 1974. This was followed up by Resolution 83-13, adopted by the RWQCB in September 1983, which imposed a discharge prohibition of individual and community sewage disposal systems in the Los Osos area. This prohibition became effective in November 1988 and has essentially halted new construction or major expansion of existing buildings within most of the Los Osos urban area.

Around this time, the San Luis Obispo County Engineering Department, the agency responsible for providing public services to the area, began the process of designing, financing, and obtaining regulatory approvals for a community wide wastewater collection, treatment, and disposal system. A wide variety of project alternatives were considered, and 5 environmental reviews were conducted pursuant to the California Environmental Quality act between 1987 and 1997. In 1990, the Coastal Commission approved an amendment to the Estero Area Plan that allowed the construction of a wastewater plant on an agricultural site in the rural area known as the Turri site. This site was later abandoned by the County in favor of a treatment site on the east side of the intersection of South Bay Boulevard and Pismo Avenue due to, among other reasons, the costs and impacts associated with transporting the wastewater to the Turri site.

In 1997, San Luis Obispo County approved a Coastal Development Permit for the wastewater treatment facility proposed by the County Engineering Department, which was subsequently appealed to the Coastal Commission. After determining that the appeal raised a substantial issue on the Commission held a series of De Novo hearings on the merits of the County project. At each of these hearings, the Commission received a great deal of public testimony opposing the County project and suggesting that an environmentally superior alternative was available. The Commission continued action on the county project, among other reasons, to provide the community with an opportunity to pursue alternatives. In November 1998, the community approved the formation of a Community Services District, which assumed the responsibility for addressing the area's wastewater treatment needs.

The LOCSD has diligently pursued a solution to the area's wastewater treatment problem that incorporates, where feasible, project elements desired by the community that were not included in the County's project. The LOCSD has recently identified its preferred project, which involves the construction of a wastewater treatment facility, along with other public amenities such as a new library, a dog park, athletic fields, walking trails, and gardens at the Tri-W site. The subject LCP amendment is needed to allow these types of uses at this site. Construction of the wastewater facility project will be subject to future approval of a coastal development permit by San Luis Obispo County - an action that may be appealed to the Coastal Commission.

C. Coastal Water Quality and Marine Resources

1. Coastal Act Provisions

Section 30230

> *Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231

> *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

2. Water Quality and Marine Resource Analysis

As described above, State and regional water quality control boards have determined that the construction of a wastewater treatment system for the South Bay Urban Area is essential to protect groundwater resources and the water quality the Morro Bay National Estuary, which are being adversely impacted by the use of septic systems. These impacts are related to the lack of adequate separation between septic leach fields and groundwater, and the intensity of individual septic systems within a densely populated area, as further described below.

Typically functioning septic systems will separate out solids from raw sewage within a septic tank,

and the liquid sewage will flow, without treatment, into the soils surrounding the tank (i.e., the leach field). Because treatment of the liquid sewage is accomplished by the soil, it is necessary to have adequate amounts of soil between the leach field and ground water, and to have adequate room for the dispersal of the pollutants contained in the sewage. These minimum requirements are typically established by Regional Water Quality Control Boards in Basin Plans developed for specific watershed regions. The Basin Plan applicable to the Estero area specifies one residence per acre, while in Los Osos, ten residences per acre are common. In addition, the Basin Plan specifies 20 to 50 feet separation in sandy soils between the bottom of the leach trench or pit and groundwater; in Los Osos, zero separation is not uncommon.

Primary constituents of concern in sewage are nitrates, which can lead to health problems if certain concentrations are found in drinking water. In addition, high concentrations of nitrates in surface waters can result in alga blooms that deplete oxygen from the water, having an adverse impact on aquatic habitats. Other elements of domestic sewage that can have adverse environmental impacts include bacteria such as fecal coliform, and viruses. These constituents pose health risks to humans both from direct contact with contaminated surface water, as well as from the consumption of contaminated shellfish. Indeed, surface waters surrounding the Los Osos area periodically do not meet bacteria standards for water contact recreation (such as swimming, wading, kayaking and small boat sailing). Oyster growing operations in Morro Bay have also been by affected by high bacteria levels that require growers to close portions of their lease areas year-round, and shut down operations for many days after it rains.

Groundwater resources are also being adversely impacted by the use of septic systems. There are two ground water aquifers underlying the Los Osos area; an upper and a lower aquifer. Ongoing ground water monitoring preformed by the RWQCB indicates the Los Osos ground water basin is one of the more severely contaminated basins in the region, and that ground water nitrate concentrations have significantly increased as population increased in the Los Osos area. Monitoring data indicates much of the shallow groundwater in the most densely developed areas exceeds 45 mg/l, the drinking water standard for nitrate. For this reason, many of the shallow water supply wells have been removed from service and demand shifted to the deeper aquifer. Dependence upon the deeper aquifer exacerbates the surface water problems because the community's water supply, formerly drawn from the upper aquifer, is now drawn from the deeper aquifer and recharged (after use) to the upper aquifer causing ground water levels to rise and flood more septic systems. This has increased the adverse impacts to surface waters described above.

3. Water Quality and Marine Resource Conclusion

The construction of a wastewater treatment facility to serve the South Bay urban area is essential to preserve and enhance the water quality of the Morro Bay National Estuary and the Los Osos groundwater basin, and to protect the significant natural resources and coastal uses dependent upon these coastal waters. Therefore, approval of the amendment to allow a wastewater treatment facility on the Tri-W site is necessary to carry out the requirements of Coastal Act Sections 30230 and 30231.

D. Environmentally Sensitive Habitat Areas (ESHA)

1. Coastal Act ESHA Policies

Section 30240

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

2. ESHA Analysis

The Site that is the Subject of the Amendment is ESHA

As previously described, the undeveloped 11.5 acres that comprise the Tri-W site supports important biological resources that qualify the entire site as an ESHA[2]. These resources include:

Baywood Fine Sands. A defining feature of Los Osos terrestrial habitats and the project site is the presence of Baywood fine sands, a soil type unique to the stabilized sand dunes of the Los Osos. This soil type supports Central dune scrub and maritime chaparral plant communities. Central dune scrub has been identified as having "highest inventory priority" by the California Department of Fish and Game (CDFG)[3]. Additionally, CDFG has identified the Baywood fine sands dune habitats of Los Osos as a "Significant Natural Area" [4].

Central Dune Scrub. As described by the EIR for the project and shown by Exhibit 3, the Tri-W site is dominated by the Coastal dune scrub plant community, which covers approximately 70 percent of the site. In a recent analysis of plant communities of California, the type of dune scrub habitat found in Los Osos was classified as the Dune Lupine-Golden Bush Series (Sawyer and

[2] Environmentally Sensitive Habitat Areas are defined by Section 30107.5 of the Coastal Act as "any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments".

[4] The Significant Natural Areas Program was established to identify high-priority sites for the conservation of California's biological diversity and to inform resource decision-makers about the importance of these sites. The programs goals include: 1) identifying the most significant natural areas in California; 2) ensuring the recognition of these areas; and 3) seeking the long-term perpetuation of these areas.

Keeler-Wolf 1995), which is considered rare by CDFG . The type of dune scrub habitat occurring on the Tri-W site has incurred a particularly significant loss in acreage due to land use changes that have occurred over the past 50 – 80 years[5]. The EIR states that the coastal dune scrub habitat on the Tri-W site is degraded due to the presence of veldt grass, a non-native invasive species, over much of the site.

Rare Wildlife Species. The EIR for the Wastewater Treatment project identified 21 special status wildlife species that have the potential to occur within the vicinity of the project, and confirmed the presence of the federally threatened Morro shoulderband snail on the site. Eucalyptus groves on the Tri-W site provide suitable overwintering habitat for Monarch butterflies, recognized as a "California Special Resource". They also may be used by protected raptors such as the white-tailed kite, sharp shinned hawk, Cooper's hawk, and the golden eagle for nesting and, in some cases, wintering habitat. Finally, the EIR describes the Tri-W site as suitable habitat for the Morro Bay kangaroo rat, listed as endangered at both the federal and state levels.

(what about rare plant species??)

<u>There are no Feasible, Less Environmentally Damaging Sites</u>

The EIR for the wastewater treatment project compared the biological impacts associated with locating the treatment plant on the Tri-W site to five alternative locations as follows:

> *TREATMENT SITE ALTERNATIVES*
>
> *<u>Morro Shores Southwest</u>. The biological setting for the Morro Shores Southwest site is similar to the setting for the proposed treatment site, described in previous sections. Vegetation in this area generally consists of disturbed veldt grassland, coastal sage scrub, and eucalyptus groves ranging from one to eight mature trees. This site provides less suitable habitat for the Morro Shoulderband snail due in large part to the presence of eucalyptus, but provides better quality habitat for Monarch butterfly, and nesting raptors. This portion of the site does not provide habitat for sensitive plant species. Impacts are similar to the proposed project. The generalized habitat of this site is depicted in Figure 6.11-2. [Attached to this report as Exhibit 4]*
>
> *<u>Holland</u>. The Holland site consists of 19.4 acres located north of Los Osos Valley Road, south of the Sea Pines Golf Course and west of Pecho Road. The site is vacant and currently grazed. The southern half of the site contains moderate quality coastal sage scrub habitat and the northern half contains disturbed annual grassland. Eucalyptus trees on site provide habitat for nesting birds and a resting place for Monarch butterflies, while the low-lying vegetation provides marginally suitable habitat for the Morro shoulderband snail. Preliminary*

[5] Draft EIR, page 254

surveys of the site have revealed the presence of snail shells; further surveys and mitigation would be required to determine the relative impact to sensitive animal species. This site does not support sensitive plant species and would therefore have similar impacts to the proposed project. The generalized vegetation of this site is depicted in Figure 6.11-5.

Pismo[6]. The Pismo Site is located just east of the junction of South Bay Boulevard and Pismo Street, and south of Los Osos Junior High School. The site slopes primarily from the southwest to the northeast, and ranges in elevation from 98 feet above MSL on the western side of the site to 53 feet above MSL on the eastern side of the site. The site supports three primary communities: Coastal Scrub, Chaparral, and Coast Live Oak Woodland. In addition, ruderal habitat occurs along the northern project site boundary, adjacent to the parking lot and roadway. Vegetation of the Pismo site is depicted in Figure 6.11-6.

> *Vegetative Communities. Coastal Scrub communities, consisting primarily of Dune Lupine Scrub occupies the largest portion of the Pismo Site. Dune Lupine Scrub occupies approximately the central one-third of the site. This habitat type intergrades with Heather Goldenbush Coastal Scrub to the south, Windrow and Coast Live Oak Woodland to the east and northeast, and Veldt Grass Grassland to the west. Chaparral communities, represented by Chamise - Wedgeleaf Ceanothus, occupy the southwestern portion of the project site.*
>
> *Flora. The flora of the Pismo Site consists of 54 vascular plant taxa, of which 47 (87 percent) are native and 7 are nonnative (13 percent), and 28 nonvascular plant taxa (primarily lichens), all of which are native to the Los Osos region. Additional species of vascular and nonvascular plants are expected to occur at the Pismo Site, primarily annual herb and grass and crustose lichen species.*
>
> *Special-Status Plant Species. Coastal Scrub and Chaparral communities of the Pismo Site provide suitable habitat for a variety of special-status vascular plants including Hoover bentgrass, Arroyo de la Cruz manzanita, Morro manzanita, Wells manzanita, Monterey spineflower, Blochman's leafy daisy, Saints daisy, Indian knob mountainbalm, San Luis Obispo wallflower, Curly leaf monardella, and Dune almond. Of these twelve species identified as potentially occurring at the site based on the presence of suitable habitat, only Monterey spineflower and Dune almond were observed during the field surveys conducted for the 1997 Final*

[6] The Pismo site was the location of the wastewater treatment plant previously proposed by the San Luis Obispo County Engineering Department.

> *Supplemental EIR by Fugro West, Inc. Dune almond was observed throughout a large portion of the western one-half of the project site. Although Blochman's leafy daisy was not observed during the field survey, it has been documented previously as occurring in the vicinity and is assumed to occur at the project site. As previously indicated, field surveys were conducted outside of the normal flowering periods for most of the identified special-status plants. Several special status nonvascular plants were observed throughout the Pismo Site as well. The reader is invited to refer to the 1997 EIR for more information.*
>
> *Fauna. This site contains Coastal Scrub habitat and Monterey cypress and Monterey pine trees in a windrow. The Pismo site has suitable habitat for Morro Bay kangaroo rat, Morro blue butterfly, Black legless lizard, and Monarch butterfly.*
>
> *This site presents a greater likelihood of adverse impact to sensitive plant species, communities, and animal species than the proposed project.*
>
> *Andre. The Andre property has been significantly disturbed through ongoing agricultural operations. The site exhibits extremely low potential for Morro Shoulderband snail and other sensitive animal species. The high frequency and intensity of disturbance also limits the potential for sensitive plant species. This site would present fewer impacts to biological resources than the proposed project.*

In accordance with the EIR's analysis above, the Andre site is an alternative site for the treatment plant that could potentially avoid impacts to ESHA. Staff therefore requested the County to further consider the Andre site, as well as other sites that would avoid impacts to ESHA, as an alternative to designating the Tri-W site for the treatment plant. The County provided the following response:

> *The description of alternatives in the EIR is not only extensive; it is nearly exhaustive of sites that could support the proposed treatment plant. This effort commenced with the 1987 EIR identifying numerous sites, was followed by the 1996 EIR that included an alternative sites constraints analysis, and was augmented by the extensive site analysis done for the 2000 EIR. Reference is made to these documents previously reviewed by the Coastal Commission for substantiation. Approximately 30 parcels were examined over the course of this 15-year investigation. Summarizing this effort, two types of potential sites were rejected:*
>
> *a. Sites located outside of the Los Osos Community Services District's (LOCSD) general service area and located on land included in the Agriculture land use category: On those sites, conflicts with other Coastal Act policies, as*

well as the extremely high cost of conveying the sewage out of and the treated effluent back into the community, rendered those sites inappropriate for the project. One of those sites, the "Andre" site, like others located outside of the LOCSD service area, did not meet the objectives of the project, including affordability, proximity to the community, and opportunities for community assets (park and offices).

b. Sites located within the proposed Los Osos greenbelt: As part of the mitigation for the cumulative and secondary impacts of the wastewater project, the EIR identified [a] mitigation plan that would require the LOCSD to prepare a Habitat Conservation Plan for the entire Los Osos area (defined by Baywood Fine Sands). The most fundamental strategy of the HCP will be to direct new development into the interior of Los Osos where the residual habitats are highly fragmented, and use this as a means of protecting the more valuable habitat within the greenbelt.

Given that the Tri-W site has relatively degraded habitat and would otherwise be developed in some fashion in accordance with the LCP, the argument in favor of using this site for the treatment plant is that it would spare the use of agricultural land outside of the community, as well as sensitive habitat within the greenbelt. In addition, this proposal, by preserving the Broderson site, helps achieve other HCP goals. Moreover, it represents the best approach to protecting the environmentally sensitive habitat of endangered species in the community.

As stated in the County's response, there has been an exhaustive assessment of alternative sites for the treatment plant site. Although the Andre site may avoid direct impacts to ESHA as a result of treatment plant construction, it would result in the conversion of productive (although not prime) agricultural land, would add significant costs to the project, and would not achieve the project's objectives. Impacts to ESHA would not be completely avoided by locating the treatment plant at this site, as the collection and distribution system running to and from this location would require crossing of Los Osos Creek. Thus, it is not clear that the Andre site provides either a feasible, or environmentally preferable alternative to the Tri-W site. Given this uncertainty, and the critical resource protection needs that will be addressed by the implementation of a wastewater treatment project (see findings regarding Water Quality and Marine Resources), it is more protective of coastal resources to allow construction of the treatment plant at the proposed location than to cause the delays that would be associated with further consideration of an alternative sites.

<u>The Amendment is Inconsistent With Coastal Act ESHA Protection Requirements but on Balance, is the Most Protective of Significant Coastal Resources</u>

The loss of approximately 11.5 acres of degraded ESHA associated with the development of public facilities on the Tri-W site, as accommodated by the amendment, is inconsistent with the requirements of Coastal Act Section 30240 that prohibit the significant disruption of ESHA and limit

development within ESHA to uses that are dependent upon the resources. However, as detailed in the Marine Resources and Water Quality findings of this report, the construction of a wastewater treatment plan is essential to protect the Morro Bay National Estuary and the Los Osos groundwater basin. Thus, in the case of the proposed amendment, Section 30240 of the Coastal Act is in conflict with Sections 30230 and 30231 of the Coastal Act. The water quality and habitat protection policies of the Coastal Act cannot both be met, hence the conflict.

In enacting the Coastal Act of 1976, the legislature anticipated that such conflicts would be encountered. Section 30007.5 of the Coastal Act states:

> *The legislature further finds and recognizes that conflicts may occur between one or more policies of this division. The legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.*

As noted above, the protection of the water quality of Morro Bay and the Los Osos groundwater basin, consistent with Coastal Act sections 30240 and 30241, can only be achieved through the construction of a wastewater treatment plant in Los Osos. Thus, for purposes of section 30007.5, denial of this amendment on the basis of inconsistency with section 30240 would be inconsistent and create a conflict with sections 30230 and 30231. Section 30007.5 directs that such policy conflicts be resolved in a manner that is on balance most protective of significant resources. In this case, protection of Morro Bay water quality through the approval of the wastewater treatment site is more protective of significant coastal resources than the protection of the 11.5 acres of degraded ESHA on the Tri-W site. Moreover, the Los Osos case fits the cited example of section 30007.5, which emphasizes that policies that support concentration of urban development may be more protective of coastal resources overall. Such is the case here, where the wastewater treatment plant will provide necessary infrastructure for the urban core of Los Osos, while protecting the waters of Morro Bay. As detailed below, the project also entails the development of habitat mitigation that will serve to protect habitat outside of the urban core. Additional specific reasons for striking the balance in favor of water quality in this case include:

- Wide Range of Impacts. The degradation of the water quality in the Morro Bay estuary and the Los Osos groundwater basin will have far reaching impacts on coastal resources and uses. From a resource standpoint, increasing levels of nitrogen and bacteria can result in algal blooms that reduce the amount of oxygen available to support aquatic organisms such as fish, shellfish, plants and other elements of the food chain. From a use standpoint, increasing levels of bacteria are adversely affecting coastal dependent uses such as aquaculture, and are restricting opportunities for water contact recreation. Finally, the degradation of the Los Osos groundwater basin limits the availability of safe and sustainable water supplies necessary for residents and visitors to enjoy

this unique area of the California coastline.

- Impacts of Greater than Local Significance. The Morro Bay estuary is a wetland habitat of national significance. It is an important component to the Pacific flyway, and a popular destination for visitors from around the world. Any reduction in the biological productivity of the estuary, or the ability for the general public to enjoy it, will impact coastal resources of greater than local significance.

- Inability to Mitigate Impacts. The ability of the area's natural resources and coastal recreation opportunities to recover from the adverse impacts associated with the continued degradation of wetland and groundwater resources is questionable. No mitigation measures are available that would reduce such impacts to a level of insignificance.

Without diminishing the importance of protecting the terrestrial habitats of Los Osos, preservation of the Morro Bay National Estuary and the Los Osos groundwater basin is more protective of significant coastal resources than the conservation of the 11.5 acres of ESHA located within the Los Osos urban area.

Modifications to the Amendment Are Necessary to Maximize Consistency with ESHA Protection Requirements

Notwithstanding the need for the Commission to prioritize the protection of Morro Bay water resources, every effort must be made to maximize the amendment's consistency with the habitat protection standards of Coastal Act Section 30240. This includes avoiding impacts where feasible, and minimizing and mitigating all unavoidable impacts.

As described above, the LOCSD and the County have explored a wide range of alternative treatment plant locations, and have determined that it is not feasible to avoid the loss of ESHA and meet the project's needs. Short of finding a different site, ESHA impacts can be avoided and minimized by limiting facility development allowed on the site to the absolute minimum required to provide the essential water quality protection needs previously identified. Towards this end, the Commission must evaluate whether the range of uses accommodated by the amendment, which includes uses other than wastewater treatment facilities, should be allowed on the site, and whether the wastewater facility should be designed to avoid and minimize impacts the sensitive habitats supported on the Tri-W site.

Restricting the use of the Tri-W site to wastewater treatment facilities would preclude the development of many other public services that the LOCSD would like to provide as part of the development of the treatment plant site. As shown by the conceptual site design contained in the project EIR and attached to this report as Exhibit 4, include a dog park, playfields, an amphitheatre, gardens, and LOCSD offices. Therefore, the County has agreed with the concept of narrowing the public facility uses allowed at the project site to those that would enable the project proposed by the LOCSD to move forward. These include public utility facilities, pipelines and transmission lines, outdoor sports and recreation, passive recreation, public assembly and entertainment, temporary

events, water wells and impoundments, outdoor retail sales, and offices. In evaluating whether all of these uses can be allowed on the site, the following points must be considered.

First, the wastewater treatment project proposed by the LOCSD is a comprehensive public facility project that not only provides for wastewater treatment, but other essential public facilities as well. The construction of the wastewater treatment plant will enable development within the South Bay urban area that will, in turn, require public facilities such as parks and recreation areas. Indeed, such facilities are already needed to support the current residential population. The Tri-W site is one of the few remaining undeveloped areas within the urban core that can accommodate such uses. Locating such uses within the urban core is more protective of coastal resources than pushing them out to the urban periphery, where more productive intact ESHA exists.

Second, to minimize the impact that construction of the wastewater treatment project will have on scenic resources, the site design locates a significant portion of the facility underground. The proposed dog park will be located on top of the facility, in an area where ESHA will be lost as a result of plant construction. The provision of a dog park on the site is intended, in part, to help protect the regions sensitive habitats by providing a place for people and pets to recreate outside of the areas where such activities would disturb significant biological resources.

Third, the drainage patterns of the surrounding area are such that large volumes of storm water runoff collect on the site. In order to accommodate the treatment plant and address drainage needs, the project must include open areas where surface runoff from the site and surrounding area can be detained. The proposed playfields are intended to meet this need, as well as to provide areas for public recreation.

Fourth, operation of the wastewater treatment plant will require personnel and office space in close proximity to the treatment plant. Thus, allowing office uses at the project site is directly related to the operation of the treatment plant.

Fifth, once the above needs for the wastewater treatment project is accounted for, very little area of the 11.5-acre site remains. The habitat quality of these areas will be significantly reduced due to fragmentation and adjacent uses, and, as a result, these areas may no longer functions as viable ESHA.

In conclusion, most of the public facilities proposed at the Tri-W site by the LOCSD are essential components of, and directly related to, the wastewater treatment project. Once these facilities are constructed, the small remaining undeveloped portions of the site would likely cease to function as viable ESHA. Accordingly, the standards of the amendment appropriately focus on offsetting the loss of habitat on the Tri-W site by preserving significant amounts of similar habitat at an offsite location, as further discussed below.

These standards have been developed specifically to address the biological impacts associated with the public facilities proposed by the LOCSD, but do not address the other biological impacts that would result from other Public Facility uses allowed on the site by the proposed amendment (e.g.,

mining, petroleum extraction). Nor would the development of public facilities other than those associated with the wastewater treatment project justify the removal of ESHA, due to the conflicts with Coastal Act Section 30240 discussed above. To maximize the amendment's consistency with the ESHA protection requirements of the Coastal Act, the range of public facilities allowed on the Tri-W site must narrowed down to those that are a component of the wastewater facilities project proposed by the LOCSD. This is accomplished by Suggested Modification 1, which can be found on pages 5-6 of this report.

It is noted that the commercial retail and office and professional uses currently allowed at the Tri-W site by the LCP, which will continue to be allowed on the site if it is not acquired by the LOCSD, also pose conflicts with Section 30240. Existing LCP standards provide an adequate framework to address the biological resource impacts of such development and carry out the requirements of Coastal Act Section 30240. The new standards for future development of the site effectuated by this amendment are needed to respond to the impacts posed by the additional types of development proposed to be allowed on the site, particularly given their resource intensive nature.

Unavoidable Impacts Will be Effectively Mitigated

Since the avoidance of impacts to ESHA on the Tri-W site is not feasible, a great deal of emphasis has been placed on minimizing impacts and providing adequate mitigation. Project specific biological mitigation measures have been developed as part of the wastewater project EIR, and have been incorporated into the proposed amendment as standards for wastewater facility development. These standards are attached to this report as Exhibit 2 and provide mitigation for the loss of habitat at the treatment plant site, as well as for the environmental impacts of the project as a whole.

There are two general categories of impacts associated with the wastewater project. Direct impacts, resulting from facility construction, and, secondary impacts resulting from future development made possible by the project. A significant direct impact posed by the project is the loss of coastal dune scrub habitat; 7.5 acres at the Tri-W site, and 8 acres at the primary leach field site, known as the Broderson site[7] (see location map attached as Exhibit 5). Other direct impacts include the loss of Eucalyptus groves that support Monarch butterflies and raptors; about 2.5 acres at the Tri-W site and one quarter of an acre at the Broderson site. In order to mitigate these direct impacts, the EIR and the proposed LCP amendment require:

- Protection of adjacent Monarch butterfly roosting sites by conducting pre-construction surveys and fencing of roost sites that could be affected during construction.

- Relocation of Morro shoulderband snails from areas of proposed disturbance to nearby areas with suitable habitat.

- Pre-construction surveys to determine whether nesting raptors or species protected by State

[7] The installation of leach fields on the Broderson is currently an allowable use within the LCP's land use designation for the Broderson site. Thus, this aspect of the project is not directly related to the amendment.

and/or Federal law are present on or within the project area. If present, the nest tree or area will be fenced or otherwise demarcated and a 500-foot no-disturbance buffer will be established until the nesting activity is completed and the young have fledged. The distance and placement of the buffer area will be determined in consultation with the CDFG.

- Restoration of the 8 acres of the Broderson site where leach fields will be constructed to coastal scrub habitat.

- Mitigation for the loss of Coastal Scrub habitat in accordance with authorizations required by the U.S. Fish and Wildlife Service (USFWS) and the CDFG , including the acquisition of additional habitat sufficient to compensate for the loss of habitat of the Morro shoulderband snail, Morro Bay kangaroo rat, Morro Bay blue butterfly, and other species dependent upon the coastal dune scrub habitat that may be directly impacted by the project. The land acquired is to have the following qualities:

  - The land should be a parcel or group of parcels containing approximately 40 acres. The preferred site for mitigation is the northerly Broderson parcels.

  - The land should be habitat in or contiguous to the proposed critical habitat area as designated by the USFWS. Ideal land that meets this criteria is located around the community of Los Osos in the area studied for the greenbelt program by the Land Conservancy.

  - Any disturbed portion of the land should be capable of restoration to a native habitat. This would mean that the soils have not been removed or fill placed on the site that are unsuitable for the native plantings (other than small amounts). The land should be free of structures or debris, or capable of being cleared of any structures.

  - The land should have primarily aeolian sand deposits; be in a stabilized condition (not mobile); have an open canopy; be of the appropriate aspect and other meteorological conditions.

  - The land should be granted to an appropriate agency or conservation organization in perpetuity with deeded guarantees prohibiting development or transfer (unless to another like organization). The protection of the land may allow for some passive public activities, such as hiking, scientific investigation, and low-impact education.

- Restoration of the mitigation site by the LOCSD, including removal of invasive exotic plant species; removal of structures or debris; regrading of any unnatural mounds, holes or berms; implementation of a planting program of a mixture of indigenous plant species developed in conjunction with USFWS, CDFG, and California Native Plant Society (CNPS) that serves to restore the site and serve multiple species' needs, especially the Morro shoulderband snail, Morro Bay blue butterfly, Black legless lizard, and potential future reintroduction of the Morro Bay Kangaroo Rat; and, ongoing maintenance and monitoring , including actions to ensure that the compensation area is not adversely affected by human disturbance, vandalism, off-road vehicle

use, or pesticide application.

To fulfill the above requirements, the LOCSD has entered into an agreement to purchase the 80-acre Broderson site, which will serve dual purposes. As mentioned above, the site will be used for leach fields for the disposal of treated wastewater in a manner that will recharge the groundwater basin[8]. This will disturb a total of about 8 acres. The site will then be restored and preserved as coastal scrub and maritime chaparral as a means to offset the direct biological impacts caused by the construction of the wastewater treatment system. The long-term preservation and enhancement of the 80 acres of habitat contained on the Broderson site provides an effective way to offset the unavoidable biological impacts that will result from the construction of this essential public facility, and will help ensure the biological continuance of the affected types of habitats, for the following reasons.

- The loss of 7.5 acres of degraded coastal scrub habitat contained on the Tri-W site, which occurs in very low densities, and the temporary impacts to about 8 acres of medium quality scrub habitat on the Broderson site, will be offset by the preservation and enhancement of over 20 acres of high quality coastal scrub habitat on the Broderson site, which has a very high density of observed snails and is in the Critical habitat for the snail designated by the USFWS .[9]

- The loss of 2.5 acres of Eucalyptus groves on the Tri-W site, and 0.21 acre on the Broderson site, will be offset by the preservation of a roughly equivalent amount on the Broderson site, provided that the non-native eucalyptus may be removed in the future should the responsible agencies determine that it is most protective of coastal habitats.[10]

- The remaining 55 acres of the Broderson site contains sensitive high-quality Maritime Chaparral and Coast live oak woodland. This area is important habitat for rare plants including the endangered Morro manzanita and Indian knob mountainbalm.

- The 80-acre Broderson parcel is a key component of the "greenbelt" surrounding the urban area of Los Osos. The establishment, protection, and long-term maintenance of the sensitive habitat areas that comprise the greenbelt is intended to maximize protection and enhancement of the multiple species and habitats that are unique to the area, as further discussed below.

As is the case in other urbanized areas of California that once supported coastal scrub and maritime habitats, the vacant lands of Los Osos continue to support these disappearing natural resources. In the past, most efforts to protect these remaining habitats have been pursued on a case by case basis. This has resulted in a patchwork of protected habitat, the long-term viability of which diminishes as these habitat areas become further fragmented and degraded by adjacent urban development. In recognition of this trend, resource agencies are working towards regional approaches for habitat

[8] The proposed leach fields are dependent upon this location, which has been strategically selected to accomplish the project's groundwater recharge objectives.
[9] Final EIR, Response to comments, page 116
[10] *Ibid.*

conservation that can accommodate reasonable use of private property and at the same time achieve maximum protection of sensitive habitats. The standards established by the amendment for mitigating the biological impacts of the treatment plant development are consistent with the regional habitat protection planning effort currently underway in Los Osos.

This planning effort has been initiated, in part, to address the impacts to ESHA that will result from future development of vacant lots within the sewer service area. Accordingly, the LOCSD has taken a lead role in initiating the development of a Habitat Conservation Plan (HCP), in coordination with San Luis Obispo County, the Coastal Commission, the USFWS , and the CDFG . The completion of such a plan is required by the project EIR and the wastewater facility development standards contained in the County's submitted LCP amendment as follows:

- The LOCSD, in conjunction with CDFG, the USFWS San Luis Obispo County and CCC shall prepare and implement a HCP or Natural Community Conservation Plan (NCCP) for the long-term preservation of habitat remaining within the Los Osos Greenbelt, including habitat remaining on individual vacant lots in conjunction with the CDFG,. The HCP/NCCP shall identify the habitat resources and the quality of those resources on the remaining vacant properties within the Greenbelt. The range of potential conservation programs to be considered in the HCP/NCCP shall include, but not be limited to the following:

  - The identification of policies and programs to be incorporated into the Estero Area Plan aimed at the long-term preservation of sensitive biological resources in the Los Osos area; such policies and programs may include:

    - Transfer of development credits
    - Clustering
    - Avoidance of sensitive resources in site design
    - Changes in density and land use
    - Incorporation of open space into the design of new development

  - Programs aimed at facilitating coordination among agencies and organizations involved in management and conservation/preservation of sensitive resources, including USF&WS, CDFG, California Coastal Commission, San Luis Obispo County, the LOCSD, MEGA, NEP, Land Conservancy of San Luis Obispo County, and others;

  - The creation of a landbank program to facilitate the purchase of properties with high quality habitat within the Greenbelt, to be repaid over time from fees on new building permits;

  - Programs for the acquisition of properties within the Greenbelt with significant habitat resources.

The above approach is consistent with the recommendations contained with the Commission's Periodic Review of the SLO LCP for improving the protection of ESHA in Los Osos, and supports the technique for mitigating the habitat impacts associated with the development of the wastewater

treatment plant prescribed by the amendment. It is noted that the secondary impacts of wastewater treatment facility project, and the way in which the LCP will manage the growth facilitated by the project consistent with the requirements of Section 30240 of the Coastal Act, is beyond the scope of this amendment. As required by the above mitigation measure/development standard, these issues will need to be resolved prior to the approval of the Coastal Development Permit for the project. A critical component of this process will be the development new Planning Area Standards to implement the area wide conservation plan, and incorporating such standards into the LCP via the pending Estero Area Plan Update. This will provide the Commission with an opportunity to ensure that the area wide plan approach for protecting ESHA in the South Bay Urban Area will provides the most effective approach for carrying out the habitat protection objectives of Coastal Act Section 30240.

3. ESHA Conclusion

The proposed amendment is inconsistent with Section 30240 of the Coastal Act because it authorizes non-resource dependent development that will result in the loss of ESHA. However, the construction of a wastewater treatment facility to serve the South Bay urban area is essential for the protection of the Morro Bay National Marine Estuary and the Los Osos groundwater basin, consistent with sections 30230 and 30231. Numerous alternatives have been analyzed, and there does not appear to be a feasible alternative that would accomplish this critical resource protection need and result in lesser impacts to coastal resources. Therefore, the amendment raises a conflict between two primary objectives of the Coastal Act - the protection of marine resources and coastal water quality pursuant to Section 30230 and 30231, and the protection of ESHA pursuant to Section 30240. As provided by Section 30007.5, the Commission has determined that allowing the wastewater treatment plant to be constructed on the Tri-W site is more protective of significant coastal resources than the protection of the degraded and fragmented sensitive habitat contained on this site.

Notwithstanding this determination, the amendment must still carry out the habitat protection requirements of Section 30240 to the greatest degree feasible. Accordingly, the amendment requires that development of the treatment plant to be accompanied by a vigorous mitigation program that will result in the preservation and enhancement of 80 acres of sensitive coastal scrub and maritime chaparral habitat within the Los Osos area. This will effectively offset the biological impacts associated with the construction of the treatment plant on an 11.5 acre site within the urban core of Los Osos.

The amendment falls short of achieving maximum consistency with Coastal Act Section 30240, however, by authorizing the development of a wide range of new uses on the Tri-W site, many of which have no relation to the necessary wastewater treatment project. Therefore, the amendment must be denied as submitted. Only with the modification to limit the new uses allowed on the Tri-W site to those that are associated with the wastewater facility project can the amendment be approved as providing maximum consistency with the ESHA protection requirements of the Coastal Act.

E. California Environmentally Quality Act (CEQA)

The Coastal Commission's process for developing, reviewing, certifying, and amending Local Coastal Programs has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis on LCP amendments, although the Commission can and does utilize any environmental information that the local government has developed.

In this case, the Los Osos CSD has certified an Environmental Impact Report (EIR) that addresses the environmental impacts of constructing a wastewater treatment pant and associated facilities on the Tri-W site, as well as the other environmental impacts associated with implementation of the wastewater treatment facility project. The EIR concludes that all of the potentially significant adverse environmental impacts of the project can be mitigated to an insignificant level, except for construction related air quality impacts. The LOCSD adopted a Statement of Overriding Consideration that found the environmental benefits of the project outweigh the significant unavoidable impacts to air quality.

As detailed in the findings of this report, the Commission's environmental analysis identifies that the proposed LCP amendment will have a significant impact on Environmentally Sensitive Habitat Areas by greatly expanding the types of uses allowed on the Tri-W site. The Commission's analysis concludes that such impacts can only be justified by the greater environmental benefits that will be realized through the construction of a wastewater treatment project, namely the protection of the Moro Bay National Estuary and the Los Osos groundwater basin, given the lack of a less environmentally damaging feasible alternative available to meet this need. Therefore, the Commission has modified the amendment in a manner that restricts the new uses allowed at the Tri-W site to those that are associated with the LOCSD wastewater treatment project. Only with this modification will the amendment carry out the environmental protection requirements of the California Environmental Quality Act.